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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,383	12/20/2006	Peter Johnstone	03094.000140.	7289
5514 7590 06/22/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
BASS, DIRK R				
ART UNIT		PAPER NUMBER		
1797				
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06/22/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/587,383

Applicant(s)

JOHNSTONE, PETER

Examiner

DIRK BASS

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-10, 12, 15, 16, 29, 30, 34, 38, 54, 60 and 71-76 is/are pending in the application.
- 4a) Of the above claim(s) 27, 28, 34, 54, 60, 64 and 69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-10, 12, 15-16, 29-30, 38, and 71-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-840)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 27-28, 34, 54, 60, 64, and 69 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 23, 2010.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-2, 4-10, 12, 15-16, 29-30, 38, and 71-74** are rejected under 35 U.S.C. 102(b) as being anticipated by Metzger, US 4241806 (Metzger).

4. Regarding claims 1-2 and 4, Metzger discloses a panel construction (abstract, fig. 4) comprising an inner support frame (REF 16) and an outer skin (REF 12) partially enclosing said support frame at least in part by at least one layer of at least one flexible web (REF 12, col. 7, l. 30-33) at least partially overlapping a previously positioned flexible web (REF 14) whereby at least some overlapping regions of said webs are adhered to each other (implicitly disclosed).

5. Regarding claims 5-6, Metzger discloses a panel construction including at least two frame elements spaced apart and wound by said flexible web such that the flexible web between adjacent frame elements forms a hinge means (fig. 2).

6. Regarding claim 7, Metzger discloses a panel construction wherein said support frame is fully enclosed by outer skin (implicitly disclosed).

7. Regarding claim 8, Metzger discloses a panel wherein the flexible web is disposed in at least two different directions at different angles relative to each other (implicitly disclosed).

8. Regarding claims 9-10, Metzger discloses a panel wherein the flexible web is a plastics film web (col. 7, l. 30-33).
9. Regarding claim 12, Metzger discloses a panel wherein air is trapped and retained within said outer skin (implicitly disclosed).
10. Regarding claim 15, Metzger discloses a panel wherein the flexible plastics film web includes self adherent characteristics (col. 8, l. 67 - col. 9, l. 3).
11. Regarding claim 16, Metzger discloses a panel wherein the support frame includes a perimeter substantially rigid frame formation (fig. 4).
12. Regarding claims 29-30, Metzger discloses a container comprising a plurality of panel constructions connected together via hinge means (fig. 1-3).
13. Regarding claim 38, Metzger discloses a panel wherein the inner support frame has two mutually parallel first frame members spaced from one another ('top' and 'bottom' of REF 16) with each first frame member having at least one hinge zone such that the hinge zones in the spaced first frame members are arranged in at least one pair with each said pair defining a hinge axis ('corner' of REF 16).
14. Regarding claims 71-72, Metzger discloses a panel wherein an inlet and outlet means is provided enabling a liquid to be delivered to said substantially open space (fig. 4-5).
15. Regarding claims 73-74, Metzger discloses a panel including multiple inclined surfaces each leading upwardly and inwardly from a separate section of said perimeter rigid frame (fig. 1-3).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

18. **Claims 75-76** are rejected under 35 U.S.C. 103(a) as being unpatentable over Metzger.

19. Regarding claims 75-76, Metzger does not appear to disclose the coloring of an outer skin. However, it would have been an obvious matter of design choice to color the outer skin as claimed, since applicant has not disclosed that such coloration solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the outer skin coloration of Metzger.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIRK BASS whose telephone number is (571) 270-7370. The examiner can normally be reached on Mon - Fri (9am-4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Krishnan S Menon/
Primary Examiner, Art Unit 1797

/DRB/
Dirk R. Bass